

CLEARY GOTTLIEB STEEN & HAMILTON LLP

One Liberty Plaza
 New York, NY 10006-1470
 T: +1 212 225 2000
 F: +1 212 225 3999
 clearygottlieb.com

WASHINGTON, D.C. • PARIS • BRUSSELS • LONDON • MOSCOW
 FRANKFURT • COLOGNE • ROME • MILAN • HONG KONG
 BEIJING • BUENOS AIRES • SÃO PAULO • ABU DHABI • SEOUL

D: 212-225-2840
 lfriedman@cgsh.com

VICTOR I. LEWKOW	ETHAN A. KLINGSBERG	ARI D. MACKINNON
LESLIE N. SILVERMAN	MICHAEL D. DAYAN	JAMES E. LANGSTON
LEE C. BUCHHEIT	CARMINE D. BOCCUZZI, JR.	JARED GERBER
JAMES M. PEASLEE	JEFFREY D. KARP	COLIN D. LLOYD
THOMAS J. MOLONEY	KIMBERLY BROWN BLACKLOW	GOREY M. GOODMAN
DAVID G. SABEL	ROBERT J. RAYMOND	RISHI ZUTSHI
JONATHAN I. BLACKMAN	SUNG K. KANG	JANE VANLARE
MICHAEL L. RYAN	LEONARD C. JACOBY	DAVID H. HERRINGTON
ROBERT P. DAVIS	SANDRA L. FLOW	KIMBERLY R. SPOERRI
YARON Z. REICH	FRANCISCO L. CESTERO	AARON J. MEYERS
RICHARD S. LINCIER	FRANCESCA L. ODELL	DANIEL C. REYNOLDS
STEVEN G. HOROWITZ	WILLIAM L. MCRAE	RESIDENT PARTNERS
JAMES A. DUNCAN	JASON FACTOR	SANDRA M. ROCKS
STEVEN M. LOEB	MARGARET S. PEONIS	S. DOUGLAS BORISKY
CRAIG B. BROD	LISA A. SCHWEITZER	JUDITH KASSEL
EDWARD D. ROSEN	JUAN G. GIRALDEZ	DAVID D. WEBB
LAWRENCE S. FRIEDMAN	DUANE MCLAUGHLIN	PENEOPHILY CHRISTOPHOROU
NICOLAS GRABAR	BREON S. PEACE	MARK Z. MORAG
CHRISTOPHER E. AUSTIN	HEATHER M. KOTLER	MARY E. ALCOCK
SETH GROSSHANDLER	CHANTAL E. KORDULA	HEIDE H. ILGENFRITZ
HOWARD S. ZELBO	BENET J. O'REILLY	HUGH C. CONROY, JR.
DAVID E. BRODSKY	ADAM E. FLEISHER	KATHLEEN M. EMBERGER
ARTHUR H. KOHN	SEAN A. O'NEAL	WALLACE L. LARSON, JR.
RICHARD J. COOPER	GLENN P. MCGRORY	AVRAM E. LUFT
JEFFREY S. LEWIS	MATTHEW P. SALERNO	ANDREW WEAVER
PAUL J. SHIM	MICHAEL J. ALBANO	HELENA K. GRANNIS
STEVEN L. WILNER	VICTOR L. HOU	JOHN V. HARRISON
ERIKA W. NIJENHUIS	ROGER A. COOPER	CAROLINE F. HAYDAY
ANDRES DE LA CRUZ	AMY R. SHAPIRO	RAHUL MUKHI
DAVID C. LOPEZ	JENNIFER KENNEDY PARK	NEIL R. MARKEV
JAMES L. BROMLEY	ELIZABETH LENAS	HUMAYUN KHALID
MICHAEL A. GERSTENZANG	LUKE A. BAREFOOT	CHRIS C. LEE
LEWIS J. LIMAN	PAMELA L. MARCOGLIESE	KENNETH S. BLAZEJEWSKI
LEV L. DASSIN	PAUL M. TIGER	RESIDENT COUNSEL
NEIL Q. WHORISKEY	JONATHAN S. KOLODNER	LOUISE M. PARENT
JUDGE U. VENTORENA	DAVID A. STERN	OF COUNSEL
MICHAEL D. WEINBERGER	MEYER H. FEDIDA	
DAVID LEINWAND	ADRIAN R. LEIPSIC	
DIANA L. WOLLMAN	ELIZABETH VICENS	
JEFFREY A. ROSENTHAL	ADAM J. BRENNEMAN	

October 30, 2017

BY ECF

Hon. Dora L. Irizarry, U.S.D.J.
 United States Courthouse
 225 Cadman Plaza East
 Brooklyn, New York 11201

Re: Applebaum, et al. v. National Westminster Bank, Plc, 07-cv-916 (DLI) (RML)
 Weiss, et al. v. National Westminster Bank, Plc, 05-cv-4622 (DLI) (RML)
 Strauss, et al. v. Crédit Lyonnais, S.A. 06-cv-702 (DLI) (RML)
Wolf, et al. v. Crédit Lyonnais, S.A., 07-cv-914 (DLI) (RML)

Dear Chief Judge Irizarry:

I am writing on behalf of defendants Crédit Lyonnais, S.A. (“CL”) and National Westminster Bank (“NatWest”), further to my October 19 letter to the Court (Strauss ECF No. 447), and in response to Mr. Turner’s October 27 letter to the Court on behalf of plaintiffs (Strauss ECF No. 449). Mr. Turner’s letter repeats his request of two weeks ago that the Court schedule the trial of plaintiffs’ claims against NatWest before the trial of plaintiffs’ claims against CL. As I explained in my October 19 letter, that would reverse the trial sequence that plaintiffs had previously proposed to the Court and to defendants.

In my October 19 letter, I also noted that CL and NatWest may have diverging responses to plaintiffs’ request, and thus my ethical obligations preclude me from advising both of them on this subject. I therefore informed the Court that each defendant would consider this subject independently of my firm and would respond to plaintiffs’ request promptly. Both CL and NatWest have now considered this subject, and I am enclosing letters to the Court from Rita Zeidan, the General Counsel of CL (now known as LCL), and Robert Houck of Clifford Chance US LLP, which NatWest has retained for this purpose.

In Mr. Turner’s October 27 letter, he also makes the further request, unsupported by any motion, that Your Honor vacate the scheduling orders that Magistrate Judge Levy entered on

Hon. Dora L. Irizarry, U.S.D.J., p. 2

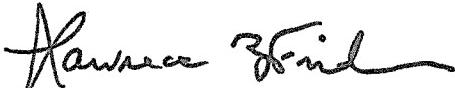
October 16 after the scheduling conference that same day, pursuant to which the JPTO in the CL cases will be filed first, on December 15, 2017, and the JPTO in the NatWest cases will be filed second, on February 15, 2018. In requesting that these orders be vacated and that the sequence for which they provide be reversed, so that the NatWest JPTO would be filed first and the CL JPTO would be filed second, Mr. Turner contradicts, without explanation, his statement to Magistrate Judge Levy during the October 16 scheduling conference that the sequence and schedule forth in the October 16 scheduling orders are “fine from the plaintiff’s [sic] perspective.” Tr. at 16:17-18 (Strauss ECF No. 448). Plaintiffs’ belated request to vacate the October 16 scheduling orders is meritless, and the Court should reject it.

Finally, I wish to address two other aspects of Mr. Turner’s October 27 letter.

First, Mr. Turner mischaracterizes my disclosure in my October 19 letter of my firm’s inability as an ethical matter to advise defendants with respect to the trial sequence as an “eleventh-hour conflict” that should have been disclosed years earlier. His letter ignores that this subject first arose *a mere three days earlier*, during the October 16 scheduling conference, when he announced, without any prior notice, that plaintiffs wish to try their claims against NatWest first. Mr. Turner does not dispute that, before the October 16 scheduling conference, plaintiffs had consistently informed the Court and defendants that they wish to try the CL cases first, and thus no conflict existed until plaintiffs proposed during the October 16 scheduling conference that the trial sequence be reversed.

Second, for the reasons indicated in my prior letter and above, defendants are concerned that plaintiffs’ recent requests are an exercise in gamesmanship, intended to cause defendants prejudice as a result of our prioritizing pre-trial preparation of the CL cases, especially after Magistrate Judge Levy ordered two weeks ago that the JPTO for those cases be filed first.

Respectfully,



Lawrence B. Friedman

Enclosures

cc: Magistrate Judge Robert M. Levy (via ECF)
All counsel of record



Direction des Affaires Juridiques
2, Avenue de Paris
94800 Villejuif

October 30th, 2017

BY ECF

Hon. Dora L. Irizarry, U.S.D.J.
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Applebaum, et al. v. National Westminster Bank, Plc, 07-cv-916 (DLI) (RML)*
Weiss, et al. v. National Westminster Bank, Plc, 05-cv-4622 (DLI) (RML)
Strauss, et al. v. Crédit Lyonnais, S.A., 06-cv-702 (DLI) (RML)
Wolf, et al. v. Crédit Lyonnais, S.A., 07-cv-914 (DLI) (RML)

Dear Chief Judge Irizzary:

I write on behalf of Crédit Lyonnais, S.A. ("Crédit Lyonnais") with respect to the correspondence currently before the Court regarding the proposed trial sequence of the Crédit Lyonnais and National Westminster Bank ("NatWest") matters.

Crédit Lyonnais has considered Plaintiffs' October 17, 2017 letter to the Court. Plaintiffs therein propose to try their case against NatWest prior to trying their case against Crédit Lyonnais.

While this order is different from what Crédit Lyonnais had previously understood to be Plaintiffs' preference, Crédit Lyonnais remains confident in the strength of its case and in its defenses to Plaintiffs' allegations. It therefore takes no position on Plaintiffs' current proposal, and will abide by the Court's determination as to how the matters should proceed.

Respectfully submitted,

Rita Zeidan
Directeur Juridique/General Counsel
LCL

A handwritten signature in blue ink that reads "R. Zeidan".

C L I F F O R D
C H A N C E

CLIFFORD CHANCE US LLP
31 WEST 52ND STREET
NEW YORK, NY 10019-6131
TEL +1 212 878 8000
FAX +1 212 878 8375
www.cliffordchance.com

By ECF

Hon. Dora L. Irizarry, Chief Judge
U.S. District Court for the Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

Direct Dial: +1 212-878-3224
E-mail: robert.houck@cliffordchance.com

October 30, 2017

**RE: Applebaum, et al. v. National Westminster Bank, Plc, 07-cv-916 (DLI) (RML);
Weiss, et al. v. National Westminster Bank, Plc, 05-cv-4622 (DLI) (RML);
Strauss et al. v. Crédit Lyonnais, S.A. 06-cv-702 (DLI) (RML);
Wolf, et al. v. Crédit Lyonnais, S.A., 07-cv-914 (DLI) (RML)**

Dear Chief Judge Irizarry:

I am writing on behalf of defendant National Westminster Bank, Plc ("NatWest") in response to the plaintiffs' letters of October 17 and October 27, 2017 to the Court requesting that the trial against NatWest in the above referenced matters precede the trial of the claims against Crédit Lyonnais ("CL"). I have been retained by NatWest for the limited purpose of responding to plaintiffs' request.

NatWest opposes the plaintiffs' request. A reversal of the order of trial commencement at this late stage runs contrary to the basis on which the cases against NatWest and CL have been litigated for the last nine years and would significantly prejudice NatWest.

As the defendants' counsel of record, Mr. Lawrence Friedman, noted in his October 19, 2017 letter to the Court, the defendants and plaintiffs have worked on the agreed understanding that the CL trial would occur first since at least 2008. This is reflected in statements the parties have made to the Court previously, multiple filings and the Court's prior scheduling orders. Indeed, as recently as October 16, 2017, Magistrate Judge Levy directed the parties to file with the Court the Joint Pre-Trial Order ("JPTO") for the lawsuits against NatWest 60 days after the date that was set for plaintiffs and CL to file their JPTO for the lawsuits against CL. This scheduling, which the plaintiffs now ask this Court to change, is consistent with the long-running understanding that the CL trial would occur first.

C L I F F O R D

CLIFFORD CHANCE US LLP

Hon. Dora L. Inzarriz, p.2

Changing the order of trial at this late date would cause substantial prejudice to NatWest. As the Court is aware, NatWest and CL share common defense counsel. Defense resources have been allocated based on the agreed understanding, reflected in the Court's prior scheduling orders, that the lawsuits against CL would proceed to trial first. The Court directed the parties to file the JPTO for the CL lawsuits on December 15, 2017 and the JPTO for the NatWest lawsuits on February 15, 2018. Consistent with that direction, the preparation of the JPTO for the CL trial is farther advanced than that for the NatWest trial. Defendants' counsel has allocated resources reasonably and efficiently to the preparation of the JPTO, based on the scheduling orders that were entered and with the understanding that the CL trial would occur first and the NatWest trial would occur second.

Moreover, the NatWest and CL cases will have a substantial number of pre-trial motions associated with them. Again, resources have been allocated to the preparation of those motions based on the prior understanding that the lawsuits against CL would proceed to trial before those against NatWest. That allocation of resources was both reasonable and necessary in light of the Court's prior scheduling orders.

In sum, NatWest permitted external counsel to prioritize trial preparation for the CL cases in reasonable reliance on the prior understanding of the parties and the Court that the NatWest cases would go to trial second, not first. As a result, changing the order of trials now would be prejudicial to NatWest. Accordingly, NatWest respectfully asks the Court to deny the plaintiffs' request and maintain the existing scheduling order, with the CL trial occurring first and the NatWest trial occurring second.

Respectfully submitted,



Robert Houck

Counsel for National Westminster Bank, Plc

cc: All Counsel of Record via ECF